

REMARKS

Prior to this Response, claims 1-5, 7-9, 12, 14-18, 31, 87, 90, 94-96 and 103-105 were pending, claims 1-8, 709, 12, 15-17 and 31 being allowed. By the present communication, claims 87, 90, 94-96 and 103-105 have been cancelled without prejudice. In addition, claims 14 and 18 have been amended to define Applicants' invention with greater particularity. The amendments add no new matter, being fully supported by the Specification and original claims. Accordingly, upon entry of the amendments, claims 1-5, 7-9, 12, 14-18, and 31 will be currently pending.

Claim Objections

Claim 14 is presently objected to for alleged informality, as reciting the phrase "drug, or protein, gene". The Examiner states that the phrase would be grammatically correct if "or" is inserted between "protein" and "gene" (Office Action, page 2). Applicant has amended the phrase at issue by reciting instead "drug or protein" and deleting the term "gene" to remove all reference to a "gene" from the pending claims. Applicant asserts that the claim as amended is now grammatically correct and respectfully requests withdrawal of the objection to claim 14.

The Rejection under 35 U.S.C. § 112, Second Paragraph

Applicants respectfully traverse the rejection of claim 18 under 35 U.S.C. § 112, second paragraph as being indefinite in recitation of the claim "the composition", which allegedly lacks sufficient antecedent support. To overcome the rejection, claim 18 has been amended to replace the term "the composition" with the term "the autologous bone marrow aspirate" for which antecedent basis is provided in claim 1, from which amended claim 18 depends. In light of the amendment to claim 18, Applicants respectfully submit that claim 18 now meets all requirement

of 35 U.S.C. § 112, second paragraph, and reconsideration and withdrawal of the rejection of claim 18 is accordingly respectfully requested.

The Rejection of Claims 103-105 under 35 U.S.C. § 112, First Paragraph

Applicants respectfully traverse the rejection of claim 103-105 under 35 U.S.C. § 112, first paragraph, as allegedly lacking an enabling disclosure. In the present communication, claims 103-105 have been cancelled from the application without prejudice. Accordingly, Applicants respectfully submit that the rejection of claims 103-105 under 35 U.S.C. § 112, first paragraph is now moot. Accordingly, reconsideration and withdrawal of the rejection of claims 103-105 are respectfully requested.

Rejection of Claims 87, 90, and 94-95 under 35 U.S.C. § 102

Applicants respectfully traverse the rejection of claims 87, 90, and 94-95 under 35 U.S.C. § 102 as allegedly being anticipated by Bauer et al., previously of record herein. By the present communication, claims 87, 90, and 94-95 have been cancelled from the present application without prejudice. In view of the amendments to the claims canceling claims 87, and 94-95, Applicants respectfully request reconsideration and withdrawal of the rejection for alleged anticipation under 35 U.S.C. § 102 as to claims 87, 90 and 94-95.

The Rejections under 35 U.S.C. § 102(e)

Applicants respectfully traverse the rejection of claims 87, 94 and 95 under 35 U.S.C. § 102(e) as allegedly being anticipated by Avraham et al. (U.S. Patent No. 5, 980,893 (Office Action, page 12)). By the present communication, claims 87, 90, and 94-96 have been cancelled from the present application without prejudice. In view of the amendments to the claims canceling claims 87, and 94-96, Applicants respectfully request reconsideration and withdrawal of the rejection for alleged anticipation under 35 U.S.C. § 102(e) as to claims 87, 90 and 94-96 over Abraham et al.

In re Application of:
Kornowski et al.
Application No.: 09/868,411
Filed: June 14, 2001
Page 7 of 7

PATENT
Atty Docket No.: MEDIV2010-2

Allowed Subject Matter

Applicants gratefully acknowledge the indication in the Office Action that claims 1-5, 7-9, 12, 15-17, and 31 are allowed. In addition, in view of the above amendments and remarks, Applicants submit that all presently pending claims are now in condition for allowance.

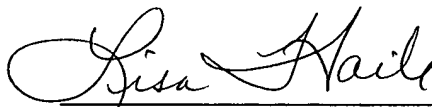
Conclusion

In view of the above amendments and remarks, Applicants submit that all objections and rejections are now overcome, and passage of the presently pending claims to allowance is respectfully requested.

If the Examiner would like to discuss any of the issues raised in the Office Action, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

Respectfully submitted,

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